

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> <p style="text-align: center;">HARTFORD CASUALTY INSURANCE COMPANY</p> <b>(b) County of Residence of First Listed Plaintiff</b> <u>Hartford</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> <p style="text-align: center;">RODOLFO CARDENAS dba RC DRYWALL</p> <b>County of Residence of First Listed Defendant</b> _____ (IN U.S. PLAINTIFF CASES ONLY)
<b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> Lawrence J. Bistany, Esq., David E. Edwards, Esq., 1650 Market Street, 1800 One Liberty Place, Philadelphia, PA 19103 (215) 864-6306, (215) 864-7166	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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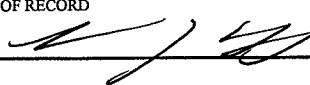
IV. NATURE OF SUIT (Place an "X" in One Box Only)					
<b>CONTRACT</b> <input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<b>OTHER STATUTES</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions					

<b>V. ORIGIN</b> (Place an "X" in One Box Only)					
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdiction statutes unless diversity): <u>28 U.S.C. §1332(a)</u> Brief description of cause: <u>Declaratory Judgment with respect to insurance coverage.</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	NONE	(See instructions): JUDGE	DOCKET NUMBER
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DATE	SIGNATURE OF ATTORNEY OF RECORD
May 22, 2012	

FOR OFFICE USE ONLY	RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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# UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: One Hartford Plaza, Hartford, CT 06155

Address of Defendant: last known: 1138 Pine Street, Easton, PA 18042

Place of Accident, Incident or Transaction: The insurance contract was issued to defendant in Easton; the underlying action is pending in Lancaster.  
(Use Reverse Side for Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

## A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Security Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(please specify)

## B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All Other Diversity Cases  
(Please specify)

## ARBITRATION CERTIFICATION

(Check appropriate category)

I, Lawrence J. Bistany, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: May 22, 2012

[Signature]  
Attorney-at-Law

61825

Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: May 22, 2012

[Signature]  
Attorney-at-Law

61825

Attorney I.D. #

CIV. 609 (6/08)

# UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: One Hartford Plaza, Hartford, CT 06155

Address of Defendant: last known: 1138 Pine Street, Easton, PA 18042

Place of Accident, Incident or Transaction: The insurance contract was issued to defendant in Easton; the underlying action is pending in Lancaster.  
(Use Reverse Side for Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

## A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Security Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(please specify)

## B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All Other Diversity Cases  
(Please specify)

## ARBITRATION CERTIFICATION

(Check appropriate category)

I, Lawrence J. Bistany, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 22 May 12

Lawrence J. Bistany  
Attorney-at-Law

61825

Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 22 May 12

Lawrence J. Bistany  
Attorney-at-Law

61825

Attorney I.D. #

CIV. 609 (6/08)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

HARTFORD CASUALTY INSURANCE  
COMPANY

v.

RODOLFO CARDENAS dba RC DRYWALL

Civil Action  
No.

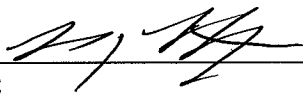
**DISCLOSURE STATEMENT FORM**

Please check one box:

- ☐ The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.
- ☒ The nongovernmental corporate party, Hartford Casualty Insurance Company, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that ultimately owns 10% or more of its stock:

The Hartford Financial Services Group, Inc.

May 22, 2012  
Date

Signature: 

Counsel for: Hartford Casualty Insurance Company

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

- (a) Who Must File; Contents. A nongovernmental corporate party must file two copies of a disclosure statement that :
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
  - (2) states that there is no such corporation.
- (b) Time for Filing; Supplemental Filing. A party must:
- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
  - (2) promptly file a supplemental statement if any required information changes.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

HARTFORD CASUALTY INSURANCE	:	CIVIL ACTION
COMPANY	:	
v.	:	
	:	
RODOLFO CARDENAS dba RC	:	NO.
DRYWALL	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

May 22, 2012  
Date

Lawrence J. Bistany  
Attorney-at-law

  
Attorney for Plaintiff

215-864-6306  
Telephone

(215) 864-7123  
Fax Number

bistanyl@whiteandwilliams.com  
E-mail Address

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

HARTFORD CASUALTY  
INSURANCE COMPANY,

Plaintiff,

v.

RODOLFO CARDENAS doing business as  
RC DRYWALL,

Defendant.

:  
:  
:  
:  
: CIVIL ACTION  
:  
: NO. \_\_\_\_\_  
:  
:  
:  
:

**DECLARATORY JUDGMENT COMPLAINT**

Hartford Casualty Insurance Company (“Hartford”) by way of Complaint for declaratory relief alleges as follows:

1. Hartford seeks a declaration that it may withdraw from the defense of Rodolfo Cardenas doing business as RC Drywall and that there is no obligation to indemnify Cardenas and his business in the lawsuit Brian D. Zern, et al. v. Smucker Company, et al., Civil Action No. 10-15805 (C.P. Lancaster) (the “Underlying Action”) because the insured has breached the duty to cooperate condition of the Policy.

**THE PARTIES**

2. Hartford is an Indiana corporation with its principal place of business in Hartford, Connecticut.

3. Rodolfo Cardenas obtained an insurance policy from Hartford for himself doing business as R.C. Drywall with a stated address of 1138 Pine Street, Easton, PA within this District and, upon information and belief, is a resident of Pennsylvania.

4. Upon information and belief, Rodolfo Cardenas has also been known as Rodolfo C. Cardenas, Rodolfo Velazquez, Rodolfo Cardenes, and Rodolfo Cardenas Velazquez (collectively “Cardenas”).

5. Upon information and belief, Cardenas left the District after being served with the Underlying Action and had gone to Mexico. Hartford attempted to send correspondence to Cardenas in Mexico but such mail was returned as undeliverable.

6. Upon information and belief, Cardenas has returned to Pennsylvania. Upon information and belief, Cardenas recently made inquiries to obtain tax documents and left a local (area code “610”) telephone number as his contact information.

#### **JURISDICTION AND VENUE**

7. This Court has original jurisdiction over this declaratory judgment action based upon 28 U.S.C. §1332(a) and 28 U.S.C. §2201, *et seq.* This action involves a controversy between citizens of different States and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

8. Pursuant to 28 U.S.C. §1391(a), venue is proper in this District as a substantial part of the events or omissions giving rise to this claim occurred in this District.

9. This court has personal jurisdiction over Cardenas because at the time of the events complained of in the Underlying Action and the filing and service of the Underlying Action, Cardenas was a resident of, and doing business in, Pennsylvania.

#### **THE UNDERLYING ACTION**

10. Brian and Lynette Zern sued a number of individuals/entities concerning injuries Brian Zern allegedly suffered on a construction project in Lancaster, Pennsylvania, on March 4, 2010.

11. The Zerns allege that Lupe Carbajal ("Carbajal") and Leonardo Garcia ("Garcia") were installing drywall about twenty-eight feet above an archway.

12. Carbajal and Garcia dropped a piece which fell on Brian Zern allegedly causing Zern serious injury.

13. The Zerns alleged that Carbajal and Garcia either worked for another defendant, Jessup Drywall, or Cardenas.

14. Cardenas is alleged to be vicariously liable for the negligence of Carbajal and Garcia.

15. A disputed and critical fact in the Underlying Action is who employed Carbajal and Garcia.

#### **THE HARTFORD POLICY**

16. Hartford issued a multi-part policy to Rodolfo Cardenas dba RC Drywall with policy number 44 SBM EZ0326 with a policy period of 07/23/09 to 07/23/10 (the "Hartford Policy").

17. The Hartford Policy provides that the insured must "[c]ooperate with us in the investigation, settlement of the claim or defense against the 'suit' ...".

18. Cardenas has failed to cooperate with Hartford in its investigation of and the defense against the Underlying Action.

19. Cardenas is not now cooperating with Hartford in its investigation of and the defense against the Underlying Action.

#### **COUNT I (Declaratory Judgment)**

20. Hartford incorporates each and every allegation of the preceding paragraphs as if each were fully set forth at length herein.

21. Pursuant to 28 U.S.C. §2201, *et seq.*, Hartford is entitled to a judicial determination of its rights and obligations under the Hartford Policy with respect to the Underlying Action.

22. For the reasons set forth herein, an actual, justifiable controversy exists between the parties concerning their respective rights and obligations under the Hartford Policy with respect to the Underlying Action.

23. As an express condition to Hartford's provision of any coverage, defense or indemnity, Cardenas is obligated to cooperate in the defense of the Underlying Action.

24. Cardenas has breached his duty to cooperate with Hartford in connection with the investigation and defense of the Underlying Action.

25. Hartford has made repeated efforts to contact Cardenas.

26. Phone calls are not returned by Cardenas.

27. Certified Mail is not signed for and returned as undeliverable.

28. Regular Mail is not responded to by Cardenas.

29. Cardenas was aware of the Underlying Action and had been served with process in the Underlying Action.

30. Despite having knowledge of the lawsuit and claims against him, Cardenas moved and left no forwarding information. Upon information and belief, Cardenas fled to Mexico.

31. Hartford made repeated attempts to contact Cardenas, including in Mexico at what Hartford was informed was Cardenas' address, but all such efforts have been unsuccessful.

32. Hartford believes that Cardenas is now back in Pennsylvania and attempts are again being made to reach him but he has again failed to respond to messages.

33. A critical issue in the Underlying Action is who employed Carbajal and Garcia. Cardenas has necessary and important information on that issue, and other necessary information to the defense of the Underlying Action, but has disappeared.

34. Cardenas is subject to default, adverse inferences and/or sanctions by his failure to participate in and cooperate in the defense, materially prejudicing the defense of the Underlying Action.

35. Hartford cannot properly provide a defense without information from Cardenas and his business about the claims.

36. Cardenas has materially compromised the defense by his failure to cooperate, in breach of his contractual obligations.

37. Because Cardenas has materially breached a fundamental condition to the Hartford Policy, there is no coverage for the Underlying Action.

38. Hartford should be allowed to withdraw its defense of Cardenas in the Underlying Action.

39. Hartford has no duty to indemnify Cardenas in the Underlying Action.

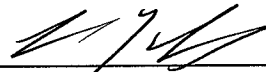
40. Hartford reserves all rights to assert any and all other policy terms, conditions and defenses that may develop.

41. An actual, present and *bona fide* controversy exists between the parties concerning their respective rights, duties and obligations.

**WHEREFORE**, Hartford Casualty Insurance Company demands judgment in its favor and against Rodolfo Cardenas dba RC Drywall declaring:

- (a) The rights, duties, obligations and liabilities, if any, of Hartford and Cardenas with respect to the Hartford Policy in connection with the Underlying Action;
- (b) That Cardenas has breached his duty to cooperate, a condition to coverage under the Hartford Policy;
- (c) That Hartford may withdraw its defense of Cardenas in the Underlying Action;
- (d) That Hartford has no duty to indemnify Cardenas in the Underlying Action;
- (e) And awarding such other and further relief, including costs of suit, as may be just, fitting and proper.

WHITE AND WILLIAMS LLP

By:   
Lawrence J. Bistany  
David E. Edwards  
1650 Market Street  
1800 One Liberty Place  
Philadelphia, PA 19103  
(215)864-6306/7166

*Attorneys for Plaintiff  
Hartford Casualty Insurance Co.*